
(1972) 01 PAT CK 0011
In the Patna High Court

Sita Ram Singh and Others		APPELLANT
	Vs	
The State of Bihar and Another		RESPONDENT

Date of Decision : 19-01-1972

Acts Referred:

Criminal Procedure Code, 1898 (CrPC) — Section 107
Penal Code, 1860 (IPC) — Section 147, 148, 302, 324, 379

Citation : (1973) CriLJ 385

Hon'ble Judges : C.P. Sinha, J

Bench : Single Bench

Judgement

C.P. Sinha, J.—This revision by the accused persons who number twenty-eight, has been filed against the order dated 3.12.1971 of the Sessions Judge. Arrah, under which he has cancelled their bail in a case which is said to be at present under Sections 148, 302 etc., of the Indian Penal Code, This case as well as its counter case are said to be still under investigation with the police.

2. As it appears, the occurrence relating to the case in which the bails have been cancelled took place on 13.4.1971. On that very day, a first information report was lodged at the police station by Lachchuman Singh, who is opposite party No. 2 in this revision. Another first information report was also lodged at the police station by the other side on that day (13.4.1971). On the basis of those information cases under Sections 147, 148, 324, 379 etc. were registered and investigation taken up. The injured in the instant case, who subsequently expired in the hospital on 15.4.1971, was Ram Janam Singh, thereafter the sub-divisional Magistrate in this case cancelled the bail of these accused persons which had been granted by the police earlier. Then they moved the Sessions Judge, Arrah for bail which was duly allowed by him on 6.5.1971. As it appears while granting them bail the Sessions Judge had heard both sides including the first informant Lachchuman Singh who had appeared in the case under power. Subsequently, after about seven months this Lachchuman Singh filed a petition before the Sessions Judge for cancellation of their bail, as granted earlier on 6.5.1971, on various grounds. Those grounds are detailed in the Sessions

Judge's impugned order dated 3.12.1971 under which he has cancelled their bail.

3. One of the grounds given in the cancellation petition was that according to the practice of the Court bail cases relating to south Shahabad used to be put up on the third day from the date when they were filed, but in this particular case, though bail application was filed on 5.5.1971 but it was hurriedly: rushed up and moved on 6.5.1971 which prevented the petitioner from opposing the bail application. There appears no truth in this allegation in view of the fact that as I have already observed with reference to the Sessions Judge's order dated 6.5.1971, the informant Lachchuman Singh had appeared in the case under power and had been heard by the Sessions Judge in the bail matter.

4. The other four grounds for the cancellation were the lodging of three sanhas from the informant's side on 8.5.1971, 17.5.1971 and 24.7.1971 and also filing of one information petition to the Sub-divisional Magistrate on 24.6.1971. Learned Sessions Judge, on the basis of these sanhas thought that the accused persons concerned had become emboldened on their bail being granted by the Sessions Judge in their favour and were threatening the witnesses of the prosecution with their lives. There is no dispute that except lodging of those sanhas nothing was done to find out the truth or otherwise thereof. There is nothing to show that the police had taken any action on their basis to ascertain whether the allegations made regarding the accused's interference with the witnesses concerned was really: true or not. In such circumstances, they have to be treated as having remained mere allegations on informant's part and it is difficult to make them basis for cancellation of their bail inferring on their strength that the accused persons had really tried to tamper with the evidence of the prosecution in the case. Except these sanhas, no other material appears to have been furnished to the Sessions Judge to convince him that there was really abuse of privilege of bail on the part of these accused persons after they had been admitted to it.

5. In the counter affidavit filed in the case by opposite party No. 2 Lachchuman Singh, reference has been made to the initiation of Section 107. Criminal Procedure Code proceeding against the accused persons because of their highhandedness against him and men of his side. It is, however, noticed that the police recommendation for action u/s 107 is against both sides. So this cannot be used as a circumstance for cancellation of their bail. Moreover, that report of the police appears to be dated 26.4.1971, which was before their above release on bail by the Sessions Judge on 6.5.1971.

6. As already observed the above cancellation petition was filed by the private party, namely, the first informant Lachchuman Singh, There is nothing to show that the State had also joined that prayer. In the impugned order dated 3.12.1971 of the Sessions Judge, under which he has cancelled their bail, there is nothing to show that the Public Prosecutor had sided with the informant's prayer in that behalf. In fact, this order does not show that the Public Prosecutor was present and heard in the matter.

7. On a consideration of all the above facts, I am not convinced that any material of convincing nature was produced before the Sessions Judge to cancel their bail which had already been allowed about seven months ago by his predecessor in office. His action to cancel the bail merely on the basis of the aforesaid three sanhas which had been lodged on behalf of the informant with the police but they (police) did not even feel it necessary to make any enquiry to ascertain their truth or otherwise, I think was not sufficient for cancellation of their bail. To do that, the Sessions Judge should have required some more convincing materials to come to the conclusion that they were actually abusing the privilege of bail.

8. In the result, the application is allowed and the impugned cancellation order of the Sessions Judge dated 3.12.1971 is set aside and the petitioners are directed to be released on fresh bail of Rs. 4000/- (four thousand) with two sureties of the like amount each to the satisfaction of the Sub-divisional Magistrate Sasaram. It is found that while admitting this revision they were granted bail by this Court, those bails were only provisional. It may however, be observed fihat if at any future date the State comes across any tangible materials to show that they are abusing the privilege of bail so granted to them, it will be open to the State to move the appropriate authority with necessary materials to cancel their bail which, if and when moved, will be duly considered and decided on merit.